

## SITE DEVELOPMENT PERMIT

<b>FILE NO.</b>	<b>H15-007</b>
<b>LOCATION OF PROPERTY</b>	Approximately 300 feet north of West Santa Clara Street, on the west side of San Pedro Street (APN 259-35-042 and 259-35-058)
<b>ZONING DISTRICT</b>	DC Downtown Primary Commercial
<b>GENERAL PLAN DESIGNATION</b>	Downtown
<b>PROPOSED USE</b>	Site Development Permit to allow the demolition of an existing 5,000 square foot commercial building and the construction of an eight-story building with up to 201 residential units and approximately 12,000 square feet of commercial space on an approximately 1.21 gross acre project site
<b>ENVIRONMENTAL STATUS</b>	Addendum to the Downtown Strategy 2000 Final Environmental Impact Report, adopted by City Council Resolution No. 72767 on June 21, 2005; and the Envision San José 2040 General Plan Final Impact Report, adopted by City Council Resolution No. 76041 on November 1, 2011.
<b>APPLICANT/ADDRESS</b>	MCRT Investments, LLC 1810 Gateway Drive, Suite 240 San Mateo, CA 94404
<b>OWNER/ADDRESS</b>	Farmers Union LLC PO Box 1710 San José, CA 95109

The Director of Planning, Building, and Code Enforcement determines, concludes, and finds as follows for this proposed project:

1. **Site Description and Surrounding Uses.** The project site is located on the west side of San Pedro Street, approximately 300 feet north of West Santa Clara Street. The site is currently developed with a one-story, 5,000 square foot commercial building and a surface parking lot.
  - a. The project site is surrounded by properties with the DC Downtown Primary Commercial zoning designation. The adjacent property to the north is developed with a building designated as a Structure of Merit per the City's Historic Resources Inventory. A five-story public parking garage is located to the east of the site. Three City Landmark buildings: the Lyndon Building (177 W. Santa Clara Street), the Masson Building (161 W. Santa Clara Street), and the Farmer's Union Building (151 W. Santa Clara Street) are located to the south. The property to the west across Almaden Avenue is developed with a 14-story office tower with a podium parking level at grade.

2. **Project Description.** This is a Site Development Permit request to allow the demolition of an existing 5,000 square foot commercial building and the construction an eight-story building with up to 201 residential units and approximately 12,000 square feet of commercial space on an approximately 1.21 gross acre project site. Parking would be provided in an integrated four-level parking garage.
3. **General Plan Conformance.** The Project is consistent with the General Plan in that:
  - a. The Project is consistent with the site's Envision San José 2040 General Plan Land Use / Transportation Diagram designation of Downtown in that this designation allows for redevelopment at high intensities. This development will contribute to the creation of a "complete community" in downtown.
  - b. Additionally, the project conforms to the following policies under the City's Envision San José 2040 General Plan:
    - i. **Community Design Policy CD-1.13:** Use design review to encourage creative, high-quality, innovative, and distinctive architecture that helps to create unique, vibrant places that are both desirable urban places to live, work, and play and that lead to competitive advantages over other regions.
      - 1) *Staff believes that the proposed materials of corten steel, metal panels, and aluminum fins respond to the surrounding historic context without creating a false sense of historicity. Staff believes that use of corten steel elements on all building elevations provides a unifying element so that each façade works in concert and relates back to the whole.*
    - ii. **Land Use Policy LU-3.1:** Provide maximum flexibility in mixing uses throughout the Downtown Area. Support intensive employment, entertainment, cultural, public/quasi-public, and residential uses in compact, intensive forms to maximize social interaction; to serve as a focal point for residents, businesses, and visitors; and to further the Vision of the Envision General Plan.
      - 1) *Staff believes that the mixed-use building, with approximately 12,000 square feet of ground-floor commercial use areas, will contribute to the continued vitality of Downtown. Staff believes that the proposed public paseo in the southern portion of the site will be a unique urban offering with its ground-floor commercial space.*
    - iii. **Land Use Policy LU-13.8:** Require that new development, alterations, and rehabilitation/remodels adjacent to a designated or candidate landmark or Historic District be designed to be sensitive to its character.
      - 1) *Staff believes that the proposed approximately 8-foot building step back on stories three through eight at the eastern elevation (facing San Pedro) would provide an appropriate development interface with the adjacent historic buildings.*
4. **Zoning Code Compliance.** The Project is consistent with the regulations of the Zoning Ordinance in the following manner:
  - a. **Height.** Properties located in the Downtown Zoning District shall only be subject to the height limitations necessary for the safe operation of San José International Airport.
  - b. **Setbacks.** Properties located in the Downtown Zoning District are not subject to any minimum setbacks.

- c. **Parking.** The proposed parking ratio of 1.36 per unit exceeds the required ratio of 1 parking space per unit per Table 20-140 in the Zoning Code.
5. **Environmental Review.** The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, stormwater runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties.
- a. An Addendum to the Downtown Strategy 2000 Final Environmental Impact Report (Resolution No. 72767) and the Envision San José 2040 General Plan Final Impact Report (Resolution No. 76041) was granted for this project under the provisions of environment review requirements of Title 21 of the San José Municipal Code implementing the California Environmental Quality Act of 1970, as amended. The project will not have a significant adverse effect on the environment.
6. **Demolition Permit Consideration.** Under the provisions of Section 20.80.460 of the San José Municipal Code, prior to the issuance of any development permit, which allows for the demolition, removal or relocation of a building, the following shall be considered to determine whether the benefits of permitting the demolition, removal or relocation outweigh the impacts of the demolition, removal or relocation:
- a. The failure to approve the permit would result in the creation or continued existence of a nuisance, blight or dangerous condition;
- b. The failure to approve the permit would jeopardize public health, safety or welfare;
- c. The approval of the permit should facilitate a project which is compatible with the surrounding neighborhood;
- d. The approval of the permit should maintain the supply of existing housing stock in the City of San José;
- e. Both inventoried and non-inventoried buildings, sites and districts of historical significance should be preserved to the maximum extent feasible;
- f. Rehabilitation or reuse of the existing building would not be feasible; and
- g. The demolition, removal or relocation of the building without an approved replacement building should not have an adverse impact on the surrounding neighborhood.
- The approval of demolition would allow the conversion of an existing underutilized surface parking lot and one-story building into a high-quality mixed-use development with a public paseo. If the building were not demolished, the proposed building could not be built and the site would remain an underutilized surface parking lot. Surface parking lots are discouraged by the General Plan in order to reduce the amount of rainwater that comes in contact with pollutants (MS-3.4) and to promote pedestrian and bicycle activity (VN-1.9).*
7. **Site Development Permit Findings.** Chapter 20.100 of Title 20 of the San Jose Municipal Code establishes required findings for issuance of a Site Development Permit.
- a. The interrelationship between the orientation, location, and elevations of proposed buildings and structures and other uses on-site are mutually compatible and aesthetically harmonious.

- i. *The majority of the building's mass is located at the two street frontages, San Pedro Street and Almaden Avenue. The orientation and location of the building and project site is such that only portions of the building would be visible at one time from any vantage point. However, staff believes that each elevation of the building corresponds to the next and the design of the building is cohesive.*
- b. The orientation, location and elevation of the proposed buildings and structures and other uses on the site are compatible with and are aesthetically harmonious with adjacent development or the character of the neighborhood.
  - i. *The proposed building has three "frontages": San Pedro Street, Almaden Avenue, and the public paseo. Staff believes that the development responds to the conditions and context of each frontage. At San Pedro Street, the horizontal line of adjacent buildings was continued to the subject building's elevation. At Almaden Avenue, the proposed transparent storefronts at the ground floor promote an active and pedestrian-friendly environment. At the mid-block paseo, the commercial uses and the provision of a public access easement from San Pedro Street to Almaden Avenue create a unique urban commercial environment. The 12.5 foot paseo walkway will be further augmented by the future re-paving and re-landscaping of the adjacent outdoor patios to the south of the subject property in a manner consistent with the treatment of the paseo walkway. Through the use of consistent materials, the area between the subject development and the historic buildings at West Santa Clara Street would visually appear as one coordinated area.*
- c. The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties.
  - i. *An Addendum to the Downtown Strategy 2000 Final Environmental Impact Report (Resolution No. 72767) and the Envision San José 2040 General Plan Final Impact Report (Resolution No. 76041) was granted for this project under the provisions of environment review requirements of Title 21 of the San José Municipal Code implementing the California Environmental Quality Act of 1970, as amended. The project will not have a significant adverse effect on the environment.*
- d. Landscaping, irrigation systems, walls and fences, features to conceal outdoor activities, exterior heating, ventilating, plumbing, utility and trash facilities are sufficient to maintain or upgrade the appearance of the neighborhood.
  - i. *The proposed ground-level and podium-level landscaping would upgrade the current appearance of the site. The proposed pavers along the paseo path with floor lighting would promote a unique pedestrian environment that would be an asset to the surrounding developments. Additionally, all trash and mechanical facilities would be located within the proposed building.*
- e. Traffic access, pedestrian access and parking are adequate.
  - i. *The proposed site circulation has been deemed sufficient by a traffic operations analysis. The project would include improvements to the pedestrian environment such as the relocation of an existing pedestrian ramp on North Almaden Avenue to align a crosswalk, the widening of the Almaden Avenue sidewalk to 12 feet, and the provision of a mid-block paseo with a public access easement. The proposed project parking exceeds the zoning requirements of one parking space per unit.*



- f. The application is either consistent with the General Plan or counterbalancing considerations justify the inconsistency.
- i. *The application is consistent with the General Plan designation of Downtown in that the project will contribute to the creation of a “complete community” with its mix of residential and commercial uses. The project will also provide for the continued vitality of Downtown and its branding as a unique urban designation.*

In accordance with the findings set forth above, a Site Development Permit for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby **granted**. The Director of Planning, Building, and Code Enforcement expressly declares that it would not have granted this Permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

**APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:**

1. **Acceptance of Permit.** Per Section 20.100.290(B), should the applicant fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the applicant shall be deemed to constitute all of the following on behalf of the applicant:
  - a. Acceptance of the Permit by the applicant; and
  - b. Agreement by the applicant to be bound by, to comply with, and to do all things required of or by the applicant pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit.
2. **Permit Expiration.** This Permit shall automatically expire four years from and after the date of issuance hereof by said Director, if within such time period, a Building Permit has not been obtained or the use, if no Building Permit is required, has not commenced, pursuant to and in accordance with the provision of this Permit. The date of issuance is the date this Permit is approved by the Director of Planning. However, the Director of Planning may approve a Permit Adjustment/Amendment to extend the validity of this Permit in accordance with Title 20. The Permit Adjustment/Amendment must be approved prior to the expiration of this Permit.
3. **Building Permit/Certificate of Occupancy.** Procurement of a Building Permit and/or Certificate of Occupancy from the Building Official for the structures described or contemplated under this permit shall be deemed acceptance of all conditions specified in this permit and the applicant's agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described by the “Building Code” shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San Jose Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.
4. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to

meet or exceed the capacity of San José Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.

5. **Conformance to Plans.** The development of the site shall conform to the approved H15-007 plans entitled, "Modera at San Pedro" dated received on May 13, 2015 on file with the Department of Planning, Building and Code Enforcement, and to the San José Building Code (San José Municipal Code, Title 24), with the exception of any subsequently approved changes.
6. **Lot Line Adjustment.** Prior to the issuance of a Building Permit the developer shall secure approval and provide proof of recordation of a Lot Line Adjustment to consolidate the existing lots.
7. **Compliance with Local and State Laws.** The subject use shall be conducted in full compliance with all local and state laws. No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code. The Permit shall be subject to revocation if the subject use is conducted in such a manner as to cause a nuisance, as defined above.
8. **Discretionary Review.** The Director of Planning, Building and Code Enforcement maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Permit incorporated by reference in accordance with Chapter 20.100 of the San Jose Municipal Code.
9. **Street tree removal.** Removal of a street tree shall require a Street Tree Removal Permit from the Department of Transportation.
10. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
11. **Refuse.** All trash areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the garbage container. Trash areas shall be maintained in a manner to discourage illegal dumping.
12. **Outdoor Storage.** No outdoor storage is allowed or permitted unless designated on the approved plan set.
13. **Utilities.** All new on-site telephone, electrical, and other overhead service facilities shall be placed underground.
14. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement, including job sites for projects under construction.
15. **Anti-Litter.** The site and surrounding area shall be maintained free of litter, refuse, and debris. Cleaning shall include keeping all publicly used areas free of litter, trash, cigarette butts and garbage.
16. **Sign Approval.** No signs are approved at this time. All proposed signs shall be subject to review and approval by the Director of Planning through a subsequent Permit Adjustment.
17. **Building and Property Maintenance.** The property owner or management company shall maintain the property in good visual and functional condition. This shall include, but not be limited to all exterior elements of the buildings such as paint, roof, paving, signs, lighting and landscaping.

18. **Street Number Visibility.** Street numbers of the buildings shall be easily visible from the street at all times, day and night.
19. **Lighting.** All new on-site, exterior, unroofed lighting shall conform to the City's Outdoor Lighting Policy and shall use fully cut-off and fully shielded, low-pressure sodium fixtures unless otherwise approved with this project. Lighting shall be designed, controlled and maintained so that no light source is visible from outside of the property.
20. **Colors and Materials.** All building colors and materials are to be those specified on the Approved Plan Set (see Permit Adjustment Required condition below).
21. **Motorcycle Parking.** This project shall conform to the motorcycle parking requirements identified on the Zoning Ordinance, as amended.
22. **Bicycle Parking Provisions.** This project shall provide a combination of short term uncovered bike parking as well as long term covered parking consistent with the requirements noted in the Zoning Ordinance.
23. **Surplus parking.** If the proposed surplus residential parking spaces are determined to be underutilized at a later date, the applicant could request a Permit Adjustment to reallocate these surplus parking spaces for public parking or other uses.
24. **Green Building Requirements.** This development shall be subject to the City's Green Building Ordinance for Private Sector New Construction.
25. **Affordable Housing Impact Fee.** Prior to the issuance of a Building Permit, the applicant will be required to pay the Affordable Housing Impact Fee. The applicant may appeal the requirement to pay prior to the issuance of a Building Permit. No Temporary Certificate of Occupancy, or Certificate of Occupancy, or Notice of Completion for any residential unit will be issued until all requirements of the Housing Impact Fee Resolution have been met.
26. **Demolition.** This permit allows the demolition of structures as noted on the approved Plans.
27. **Landscaping.** Planting and irrigation are to be provided, as indicated, on the final Approved Plan Set. Landscaped areas shall be maintained and watered and all dead plant material is to be removed and replaced by the property owner. Irrigation is to be installed in accordance with Part 3 of Chapter 15.11 of Title 15 of the San José Municipal Code, Water Efficient landscape Standards for New and Rehabilitated Landscaping and the City of San José Landscape and Irrigation Guidelines.
28. **Construction Noise.** The following mitigation measures shall be implemented for construction activities wherever there is a direct view from existing residences adjacent to the site, or where construction occurs within 500 feet of a residential area.
  - a. Construction Noise.
    - i. Contractors shall be required to use "new technology" power construction equipment with state-of-the-art noise shielding and muffling devices. All internal combustion engines used at the project site, as well as at off-site locations with project construction, shall be equipped with adequate muffling devices. All equipment shall be in good mechanical condition, to minimize noise created by faulty or poorly maintained engine, drive-train and other components.
    - ii. The contractor shall schedule on-site and off-site construction activities in shifts to avoid high noise levels caused by simultaneously operating several pieces of noise-generating equipment.

iii. Temporary berms or noise barriers, such as lumber, or other material stockpiles shall be installed during construction activities.

iv. The following equipment shall be used during construction

- 1) Earth Removal: Use scrapers as much as possible for earth removal, rather than the noisier loaders and hauling trucks.
- 2) Backfilling: Use a backhoe for backfilling, as it is less costly and quieter than either noisier bulldozers or loaders.
- 3) Ground Preparation: Use a motor grader rather than a bulldozer for final grading.
- 4) Building Construction: Power saws shall be shielded or enclosed where practical to decrease noise emissions. Nail guns shall be used where possible, as they are less noisy than manual hammering.

b. **Blasting Noise.** Blasting activities shall be limited to the hours between 7:00 a.m. and 7:00 p.m. on Monday through Friday. Sufficient advance notification to the City of San José Director of Planning and Building and Director of Public Works and to residents in the area prior to initiating blasting activities shall be provided.

**29. Construction Impact Mitigation Measures.** The applicant is responsible for notifying all contractors of the conditions of this permit and that they shall perform construction activities in compliance with these conditions, or be subject to enforcement action.

- a. *Compliance.* The applicant shall ensure that the following construction impact mitigation measures are fully complied with throughout the duration of all construction activities associated with this project and related off-site construction work. Failure to comply with these conditions by the applicant, their contractors or subcontractors shall be cause for shutdown of the project site until compliance with the following conditions can be ensured by the City. These construction impact mitigation measures shall be included in all contract documents for the project to ensure full disclosure to contractors and subcontractors.
- b. *Construction Hours.* Construction and grading activities shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday. This includes the staging of equipment and construction personnel. The construction hours shall be printed on all plans for the project used to construct the project. Interior construction activities that do not generate any audible noise impacts at residential properties are allowed on Saturdays between 9:00 a.m. and 5:00 p.m.
- c. *Enforcement.* The Director of Planning, Building and Code Enforcement may order an immediate halt to construction activities on the project site any time that the Director determines that the project is not in substantial conformance with the requirements of this Permit. Within seven days of ordering such a halt to construction, the Director of Planning, Building and Code Enforcement shall issue a Notice of Noncompliance in conformance with Section 20.100.320 of Title 20 of the San José Municipal Code indicating the specific area(s) of noncompliance and providing notice that the Director may issue an Order to Show Cause why the development permit shall not be revoked, suspended, or modified if the noncompliance is not corrected.
- d. *Construction Deliveries.* Deliveries shall not occur outside the above construction hours. All deliveries shall be coordinated to ensure that no delivery vehicles arrive prior to the opening of the gates to prevent the disruption of nearby residents.



- e. *Fencing.* The site shall be wholly enclosed by security fencing where the site is accessible by vehicles. The gates to the project site shall remain locked during all other times, except for a 30-minute period immediately preceding and following the above hours of construction.
  - f. *Assembly Area.* Workers shall not arrive to the site until the opening of the project gates. The applicant shall designate a location without adjacent residential units for workers to wait prior to the opening of the project gates.
  - g. *Disturbance Coordinator.* A Construction/Disturbance Coordinator shall be identified by the developer for this project. The Construction/Disturbance Coordinator shall be responsible for ensuring compliance with the hours of construction, site housekeeping, and other nuisance compliance conditions in this permit. The coordinator shall also compile information regarding construction phasing/operations and keep the neighborhood informed of the stages of development. The coordinator shall also listen and respond to neighborhood concerns regarding construction, determine the cause of the concern (e.g., starting too early, bad muffler, etc.) and institute reasonable measures warranted to correct the problem in a timely manner. The coordinator shall maintain a log of calls and shall make that log available to the City of San Jose upon request.
  - h. *Posting of Telephone Number.* The name and phone number of the Construction/Disturbance coordinator, the hours of construction limitations, and City File Number H15-007, shall be displayed on a weatherproof sign posted at each entrance to the project site. A local phone number with answering service shall be maintained during the duration of project construction.
  - i. *Street Cleaning and Dust Control.* During construction, the developer shall damp-sweep the public and private streets within and adjoining the project site each working day sufficient to remove all visible debris and soil. On-site areas visible to the public from the public right-of-way shall be cleaned of debris, rubbish, and trash at least once a week. While the project is under construction, the developer shall implement effective dust control measures to prevent dust and other airborne matter from leaving the site.
  - j. *Construction Watering.* The proposed project shall use recycled water for all grading, dust control, and other non-potable approved uses during construction to the satisfaction of the Director of Public Works.
30. **Air Quality.** During construction, the following measures shall be incorporated to mitigate any possible significant air quality impacts.
- a. Water all active construction areas at least twice daily.
  - b. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard.
  - c. Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites.
  - d. Sweep daily (with water sweepers) all paved access roads, parking areas and staging
  - e. Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets.
31. **Asbestos.** In accordance with State law, an asbestos survey shall be completed prior to the demolition renovation of any structures on the site. If any asbestos building materials are present, an asbestos abatement program will be implemented, including the removal and disposal of the materials at a permitted facility.

32. **Avigation Easement.** Prior to issuance of building permits, an Avigation Easement must be granted by the property owner to the City of San Jose. Contact Cary Greene of the San Jose Airport Department at 408-392-3623 or [cgreene@sjc.org](mailto:cgreene@sjc.org) to initiate the easement dedication process.
33. **FAA Clearance Required.** The permittee shall obtain from the Federal Aviation Administration a “Determination of No Hazard to Air Navigation” for each building high point. The permittee shall abide by any and all conditions of the FAA determinations (if issued) such as height specifications, rooftop marking/lighting, construction notifications to the FAA through filing of Form 7460-2, and “No Hazard Determination” expiration date. The data on the FAA forms should be prepared by a licensed civil engineer or surveyor, with location coordinates (latitude/longitude) in NAD83 datum out to hundredths of seconds, and elevations in NAVD88 datum rounded off to the next highest foot.
34. **FAA Clearance Permit Adjustment.** Prior to the submittal of a building permit application, the applicant shall obtain a Permit Adjustment to incorporate all FAA conditions identified in the certificate of no-hazard determination (e.g., obstruction lights or construction-related notifications) into the Site Development Permit conditions of approval.
35. **Building Division Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
- a. *Construction Plans.* This Permit file number, H15-007, shall be printed on all construction plans submitted to the Building Division.
  - b. *Americans with Disabilities Act.* The applicant shall provide appropriate access as required by the Americans with Disabilities Act (ADA).
  - c. *Emergency Address Card.* The project developer shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
  - d. *Construction Plan Conformance.* A project construction plan conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to any Building Permit issuance, Building Permit plans shall conform to the approved Planning development permits and applicable conditions.
  - e. *Project Addressing Plan.* Prior to issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official: The project applicant shall submit an addressing plan for approval for the subject development (residential, mixed use, complex commercial or industrial).
36. **Recycling.** It is required that scrap construction and demolition debris be recycled instead of disposing in a landfill. At least 75-percent of the project C&D waste must be diverted to a certified facility, reused, or donated for reuse. Use an authorized hauler or self-haul the Construction & Demolition (C&D) waste to a certified waste diversion facility, reuse it, and/or donate it for reuse, then submit weight tags and/or donation receipts to the City for verification. Additional information may be found at <http://www.sanjoseca.gov/construction-demolition> or by contacting the Commercial Solid Waste Program at (408) 535-8550.
37. **Fire Sprinkler System.** Building(s) shall be provided with an automatic fire extinguishing system in accordance with CFC 903.2 and SJFC 17.12.630. Systems serving more than 20 heads shall be supervised by an approved central, proprietary, or remote service to the satisfaction of the Fire Chief.

38. **Fire Alarm System.** The Building shall be provided with an automatic fire alarm system as required by CFC 907.2 and 907.3.
39. **Standpipes Available During Construction.** All buildings under construction, three or more stories in height, shall have at least one standpipe for use during construction. Such standpipe shall be provided with fire department hose connections. Location(s) and numbers of standpipe(s) shall be reviewed and approved by the Fire Department.
40. **Fire Department Connections.** All fire department connections shall be located within 100 feet from a standard public fire hydrant. All alternate means of protections shall be reviewed by the Fire Department. The public fire hydrant(s) shall be located on the same frontage as all fire service connections.
41. **Fire Department Connections.** Fire Sprinkler and Standpipe Fire Department Connections (FDC) serving the same building shall be located directly adjacent to each other. Buildings in excess of 200 feet long or having frontage on multiple streets shall have multiple FDCs. The Locations shall be approved during Plan Check by the San Jose Fire Department and shall be depicted on the riser key plan(s).
42. **Public Safety Radio Coverage** is to be provided throughout the area of each floor of the building. Communication repeaters may be required to be installed in the buildings.
43. **Complex Map.** A complex map is recommended which incorporates an elevated view of the building and individual unit addresses. It should be illuminated during the hours of darkness and positioned in the lobby area so as to be readily readable from main pedestrian access entrance. A complex map should also be placed contiguous to the vehicular entrance to the development where it will not cause stacking problems when being viewed.
44. **Lock Boxes.** The project development shall provide lock boxes to the satisfaction of the Chief Building Official and Fire Chief.
45. **Public Works Clearance.** A Development Clearance shall be obtained from the Public Works Department, and is subject to the following requirements to the satisfaction of the Director of Public Works:
- a. *Construction Agreement.* The public improvements conditioned as part of this permit require the execution of a Construction Agreement that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This agreement includes privately engineered plans, bonds, insurance, a completion deposit, and engineering and inspection fees.
  - b. *Transportation.*
    - i. This project is located in the expanded Downtown Core and is covered under the new San Jose Downtown Strategy 2000 EIR; therefore, no further traffic analysis is required. We conclude that the subject project will be in conformance with the City of San Jose Transportation Level of Service Policy (Council Policy 5-3) and a determination for a negative declaration can be made with respect to traffic impacts.
  - c. *Grading/Geology.*
    - i. A grading permit is required prior to the issuance of a Public Works Clearance. The construction operation shall control the discharge of pollutants (sediments) to the storm drain system from the site. An erosion control plan may be required with the grading application.

- ii. All on-site storm drainage conveyance facilities and earth retaining structures 4' foot in height or greater (top of wall to bottom of footing) or is being surcharged (slope of 3:1 or greater abutting the wall) shall be reviewed and approved under Public Works grading and drainage permit prior to the issuance of Public Works Clearance. The drainage plan should include all underground pipes, building drains, area drains and inlets. The project shall provide storm drainage calculations that adhere to the 2010 California Plumbing Code or submit a stamped and signed alternate engineered design for Public Works discretionary approval and should be designed to convey a 10 year storm event.
  - iii. The Project site is within the State of California Seismic Hazard Zone. A geotechnical investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The investigation should be consistent with the guidelines published by the State of California (CGS Special Publication 117A) and the Southern California Earthquake Center (SCEC, 1999). A recommended depth of 50 feet should be explored and evaluated in the investigation.
- d. *Stormwater Runoff Pollution Control Measures.* This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) which includes site design measures, source controls and numerically-sized Low Impact Development (LID) stormwater treatment measures to minimize stormwater pollutant discharges.
  - i. The project's Stormwater Control Plan and numeric sizing calculations have been reviewed and this project will be in conformance with City Policy 6-29.
  - ii. Final inspection and maintenance information on the post-construction treatment control measures must be submitted prior to issuance of a Public Works Clearance.
- e. *Shoring.*
  - i. Shoring plans will be required for review and approval as part of the Grading Permit for this project.
  - ii. If tie backs are proposed as part of the shoring operation, a separate Revocable Encroachment Permit must be obtained by the Developer or Contractor and must provide security, in the form of a CD or Letter of Credit, in the amount of \$100,000 must be provided.
- f. *Stormwater Peak Flow Control Measures.* The project is located in a non-Hydromodification Management area and is not required to comply with the City's Post-Construction Hydromodification Management Policy (Council Policy 8-14).
- g. *Flood Zone D.* The project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood Zone D is an unstudied area where flood hazards are undetermined, but flooding is possible. There are no City floodplain requirements for Zone D.
- h. *Sewage Fees.* In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.



- i. *Parks.* This residential project is subject to either the requirements of the City's Park Impact Ordinance (Chapter 14.25 of Title 14 of the San Jose Municipal Code) or the Parkland Dedication Ordinance (Chapter 19.38 of Title 19 of the San Jose Municipal Code) for the dedication of land and/or payment of fees in-lieu of dedication of land for public park and/or recreational purposes under the formula contained within in the Subject Chapter and the Associated Fees and Credit Resolutions.
- j. *Assessments.* This project is located within the Premium Zone of the Downtown San Jose Property-Based Business Improvement District, which provides enhanced cleaning, information and safety services, beautification activities, and business retention and growth programs within the boundaries of the district. The benefiting properties within the district pay for the services through annual assessments placed on the County property tax bills, which may be increased by up to 5% each year. The 2014-15 assessment is calculated based on the land use of its building and lot square footage minus any credits. Commercial properties in the Premium Zone pay \$0.101024508 per building and lot square footage. Residential properties pay \$0.081422464 per building and lot square footage. The 2014-15 assessment for Assessor's Parcel No. 259-35-042 is \$2,555.92. Future year assessments will continue to be collected through the County property tax bills listed under Tax Code 916 "SJ DOWNTOWN PBID".
- k. *Street Improvements.*
  - i. Applicant shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
  - ii. Remove and replace broken or uplifted curb, gutter, and sidewalk along project frontage.
  - iii. Provide a sidewalk dedication of 3.5' along N. Almaden Avenue project frontage and widen existing sidewalk to 12'.
  - iv. Close unused driveway cut(s).
  - v. Proposed driveway width to be 26'.
  - vi. Relocate existing pedestrian ramp on N. Almaden Avenue to align crosswalk.
  - vii. Dedication and improvement of the public streets to the satisfaction of the Director of Public Works.
  - viii. Repair, overlay, or reconstruction of asphalt pavement may be required. The existing pavement will be evaluated with the street improvement plans and any necessary pavement restoration will be included as part of the final street improvement plans.
- l. *Revocable Encroachment Permit (Street/Sidewalk Closures).* At the Implementation stage, Developer shall apply for a Revocable Encroachment Permit for any proposed sidewalk and lane closures to support the onsite construction activities.
  - i. The following should be included with the Revocable Permit application, but are not limited to:
    - 1) Letter of Intent: This document should provide a detailed description of the reasons for the sidewalk/lane closures and why they are absolutely necessary (man lifts, baker tanks, staging area, concrete pumping activities, etc.) and reasons why covered pedestrian walkways will not be provided (ex. swinging loads over sidewalk not safe for pedestrians).

- 2) **Multi-Phased Site Specific Sketches:** These sketches should show the phased closures during the course of construction with a provided timeframe estimate of when each phase would be implemented. These sketches should include the type and location of the work to be accomplished within the right-of-way. The exhibit should show in detail the vehicular and/or pedestrian diversion route that shows the appropriate safety equipment, such as barricades, cones, arrow boards, signage, etc.
  - 3) Developer shall minimize the potential impact to vehicular and pedestrian traffic by:
    - a) Implementing the closures at the time the onsite activities dictate the need for the closure.
    - b) Minimizing the closure timeframes to accomplish the onsite tasks and implement the next phase of the closure as outlines in condition 10.a.ii above.
  - 4) If proposed lane and parking closures are a part of the Revocable Permit Application, Developer shall submit Downtown Lane Closure and Tow Away Permit Applications to the Department of Transportation (DOT). These applications may be obtained at: <http://www.sanjoseca.gov/index.aspx?NID=3713>. The applicant shall contact DOT at (408) 535-8350 for more information concerning the requirements of these applications.
  - m. *Commercial Signs.* A Revocable Encroachment Permit must be applied for any proposed signs associated with the retail component of this project. Any proposed signs projecting into the public right-of-way cannot project more than four feet six inches (4'-6") from the surface of which it is attached and must be located at least eight (8) feet above grade.
  - n. *Greater Downtown Area Master Plans.* This project is located within the Greater Downtown area. Public improvements shall conform to the Council approved San Jose Downtown Streetscape and Street and Pedestrian Lighting Master Plans.
  - o. *Electrical.* Existing electroliers along the project frontage will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvement plans.
  - p. *Street Trees.* The locations of the street trees will be determined at the street improvement stage. Contact the City Arborist at (408) 794-1901 for the designated street tree. Install street trees within public right-of-way along entire project street frontage per City standards; refer to the current "Guidelines for Planning, Design, and Construction of City Streetscape Projects". Street trees shall be installed in cut-outs at the back of curb. Obtain a DOT street tree planting permit for any proposed street tree plantings. Street trees shown on this permit are conceptual only.
46. **Revocation, Suspension, Modification.** This Planned Development Permit may be revoked, suspended or modified by the Planning Director, or by the Planning Commission on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:
- a. A violation of any conditions of the Planned Development Permit was not abated, corrected or rectified within the time specified on the notice of violation; or

- b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
- c. The use as presently conducted creates a nuisance.

**APPROVED** and issued on this **20<sup>th</sup> day of May, 2015.**

Harry Frietas, Director  
Planning, Building, and Code Enforcement

Deputy

DRAFT